

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**
Southern Division

FRANK HARRIS, #349389,

Petitioner,

v.

WARDEN,

Respondent.

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Case No.: GJH-14-3467

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MEMORANDUM OPINION

On November 4, 2014, this court-construed 28 U.S.C. § 2241 letter petition for habeas corpus was received for filing from Frank W. Harris (“Harris”), an inmate formerly housed at the Maryland Reception, Diagnostic and Classification Center (“MRDCC”) in Baltimore. The action represents a challenge to Harris’s October 7, 2014 arrest on an August 2014 parole retake warrant and his continuing detention without a parole revocation hearing. *See* ECF No. 1.

Respondent filed a court-ordered response, which remains unopposed. The record shows that as of December 15, 2014, a Maryland Parole Commissioner had recalled the parole revocation warrant and the Division of Correction was processing Harris’ release from custody. *See* ECF No. 3, Ex 2. According to Respondent, Harris has not filed any petitions in state court raising the issues contained in this petition. *Id.*, Ex. 1.

A habeas corpus petition, with its concomitant requirement of the exhaustion of state court remedies, is the exclusive means for a person “in custody” to attack the fact or duration of his confinement. *See Preiser v. Rodriguez*, 411 U.S. 475, 489-490 (1973) (state prisoner’s civil rights action for injunctive relief seeking restoration of good time credits lost due to disciplinary

proceeding should proceed as habeas corpus matter). Harris does not dispute the fact that he has not exhausted his remedies as to his parole revocation hearing issue. Therefore, this action must be dismissed for the failure to exhaust available state court remedies. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 490-91 (1973).

Because Harris has not exhausted his remedies his petition shall be dismissed without prejudice. The court declines to issue a certificate of appealability. A separate Order follows.

Dated: March 26, 2015

/S/
George Jarrod Hazel
United States District Judge